

Remarks

Claims 1-6 are currently pending in the patent application. For the reasons and arguments set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The instant Office Action dated October 19, 2007 listed the following rejections: claims 1-2 stand rejected under 35 U.S.C. § 102(a) over Tamai *et al.* (Japanese Patent Doc. 2003048497); priority claimed by U.S. Patent No. 7,116,009); claims 3-6 stand rejected under 35 U.S.C. § 103(a) over Tamai in view of Hinman *et al.* (U.S. Pub. No. 2002/0001213).

Applicant respectfully traverses the Section 102(a) rejection of claims 1-2 and the Section 103(a) rejection of claims 3-6 because the Tamai reference (Japanese Patent Doc. 2003048497) is not prior art to the claimed invention. The publication date of the Tamai reference is February 18, 2003 whereas Applicant's priority date is April 18, 2002 (via DE 10217235.8). Thus, the Tamai reference does not qualify as prior art under Section 102(a). The Examiner notes that U.S. Patent No. 7,116,009 claims priority to the Tamai reference, however, the '009 patent does not qualify as prior art under Section 102(a) since the publication date of the '009 patent is February 13, 2003.

Moreover, Applicant submits that the '009 patent does not qualify as prior art under Section 102(e). Accordingly to M.P.E.P. § 2136, "The prior art date of a reference under 35 U.S.C. 102(e) may be the international filing date if the international filing date was on or after November 29, 2000, the international application designated the United States, and the international application was published by the World Intellectual Property Organization (WIPO) under the Patent Cooperation Treaty (PCT) Article 21(2) in the English language." *See, also* M.P.E.P. § 706.02(f)(1). Applicant submits that Japanese Application No. JP2001239643 does not meet all of these requirements. Thus, the effective date of the '009 patent under Section 102(e) is August 6, 2002 (*i.e.*, the U.S. filing date of the '009 patent), which is after Applicant's priority date of April 18, 2002.

In view of the above, the Tamai reference (Japanese Patent Doc. 2003048497) and U.S. Patent No. 7,116,009 are not prior art to the claimed invention. Accordingly, the 102(a) rejection of claims 1-2 and the Section 103(a) rejection of claims 3-6 are improper and Applicant requests that they be withdrawn.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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